

REMARKS

I. Introduction

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1-9, 20 and 22 are requested to be cancelled. The cancellation of claims does not constitute acquiescence in the propriety of any rejection set forth by the Examiner. Applicants reserve the right to pursue the subject matter of the canceled claims in subsequent divisional applications.

Claims 10 and 25 are currently amended. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claims remain under examination in the application, is presented, with an appropriate defined status identifier.

Upon entry of this Amendment, claims 10-19, 21, and 23-25 will remain pending in the application.

Because the foregoing amendments do not introduce new matter, entry thereof by the Examiner is respectfully requested.

II. Response to Issues Raised by Examiner in Outstanding Office Action

a. Claim Objections

Claims 7 and 8 are objected to by the Office. Applicants have canceled claims 7 and 8 rendering the objection moot.

b. Claim Rejections - 35 U.S.C. § 102

Claims 1 and 9 are rejected under 35 U.S.C. § 102(b) as anticipated by Murray (US 6,320,005) and § 102(e) as anticipated by Sangokoya (US 7,193,100). Applicants have canceled claims 1 and 9 rendering this rejection moot.

In addition, Applicants submit with this response an English translation of the priority document in accordance with 37 CFR 1.55. The subject matter of the current claims is supported by the priority document. See, for example, the claims on pages 3-5 of the translation. Consequently, Applicants have established that the current invention was made

before the filing date of Sangokoya. Therefore, Sangokoya is not eligible as prior art against the current application.

c. Claim Rejections - 35 U.S.C. § 103

Claims 7 and 10-25 are rejected under 35 U.S.C. § 103 as obvious over Sangokoya (US 7,193,100) in view of Sen (US 6,344,594). In addition, claims 1, 7 and 9-25 are rejected over Sen, in view of Crapo (US 5,041,584), Kaji (EP 1 352 913) and Dixon (US 7,300,904). Finally, claims 10-19, 24 and 25 are rejected over Khotimskii (SU 1690365) in view of Andes. Applicants respectfully request reconsideration and withdrawal of the rejection.

i. Current Obviousness Standard

The Supreme Court recently reaffirmed the Graham factors for determining obviousness in *KSR Int'l Co. v. Teleflex Inc.* (No. 04-1350) (U.S., April 30, 2007). The Graham factors, as outlined by the Supreme Court in *Graham et al. v. John Deere Co. of Kansas City et al.*, 383 U.S. 1 (1966), are: 1) determining the scope and contents of the prior art; 2) ascertaining the differences between the claimed invention and the prior art; 3) resolving the level of ordinary skill in the pertinent art; and 4) evaluating evidence of secondary consideration. The Supreme Court recognized that a showing of "teaching, suggestion, or motivation" to combine the prior art to meet the claimed subject matter could provide a helpful insight in determining whether the claimed subject matter is obvious under 35 U.S.C. § 103(a), and held that the proper inquiry for determining obviousness is whether the improvement is more than the predictable use of prior art elements according to their established functions. The Court noted that it is "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements" in the manner claimed, and specifically stated:

Often, it will be necessary . . . to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was ***an apparent reason to combine the known elements in the fashion claimed*** by the patent at issue. To facilitate review, this analysis should be made explicit.

KSR Int'l Co. v. Teleflex Inc., slip op. at 14 (emphasis added). As discussed below, the cited art cannot render the claimed invention obvious.

ii. Sangokoya in view of Sen

As explained above, Sangokoya is not eligible to be used as prior art against this application. Consequently, this rejection is moot.

iii. Sen in view of Crapo, Kaji, and Dixon

Applicants have amended claim 10 to include many of the limitations of claims 20 and 22. These amendments distinguish the claims over the prior art and are not rendered obvious by the cited references.

Sen teaches an ethylene trimerization reaction using MAO or organic metal compounds as disclosed in Table 3. The listed alkylating agents in the Table are outside the scope of the organic metal compounds recited in claim 10.

Crapo teaches the production method of modified methylaluminoxane, and a polymerization reaction using zirconium catalyst and MAO or MMAO in Table III, col. 9. Table III shows that MAO is the best cocatalyst for polymerization. However, Crapo does not disclose a trimerization reaction or tantalum halide. The invention of Crapo is directed to the polymerization reaction but not to the trimerization reaction and the tantalum halide.

Kaji teaches that methylaluminoxanes are useful co-catalysts to produce polymers in a reaction catalyzed by a zirconium compound. Kaji does not disclose or suggest a trimerization reaction. In addition, Methylaluminoxane is not contained in the scope of amended claim 10.

Dixon teaches a trimerization reaction using a chromium-containing catalyst together with methylaluminoxanes prepared from trimethylaluminum or triethylaluminium (lines 5-11, and lines 25-28, col. 5). As noted above, the amended claim 10 does not include methylaluminoxanes.

Therefore, the current claims are amended in order to distinguish them from the prior art. Based on the limitations shown above, the prior art, even read as a whole, does not teach the limitations of the current claims or suggest the current claims to one of skill in the art.

iv. Khotimskii in view of Andes

Khotimskii teaches an effective catalyst to polymerize 1-Me₃Si-1-propyne, which catalyst comprises tantalum chloride and butyl lithium including isomers. As conceded by the Office, Khotimskii does not disclose other uses of the catalysts, including the use of the catalyst for trimerization reaction. Office Action, p. 5. Rather Khotimskii discloses a polymerization reaction of a more reactive propyne compound. The butyl lithium isomers disclosed in Khotimskii are not part of the amended claims.

Andes discloses a limited range of alkylating agents in Table 1 used for trimerization together with tantalum chloride as a catalyst. Consequently, even the combined teachings of Khotimskii and Andes will not lead to the current process as the cited prior art lack the organic metal compounds recited in the amended claim.

Applicants respectfully request reconsideration and withdrawal of the rejection.

CONCLUSION

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

It is acknowledged that the foregoing amendments are submitted after final rejection. However, because the amendments do not introduce new matter or raise new issues, and because the amendments either place the application in condition for allowance or at least in better condition for appeal, entry thereof by the Examiner is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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